

1 (“CERCLA”), 42 U.S.C. § 9607. The United States seeks to recover the
 2 unreimbursed costs it has incurred in connection with the release and threatened
 3 release of hazardous substances into the environment at the Moses Lake Wellfield
 4 Superfund Site (the “Site”) near Moses Lake, Washington.

5 JURISDICTION AND VENUE

6 2. This Court has jurisdiction over the subject matter of this action, and
 7 the defendant, pursuant to 28 U.S.C. §§ 1331 and 1345, and Sections 107 and 113
 8 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

9 3. Venue is proper in this District under Section and 113(b) of
 10 CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b), because the claims
 11 arose, and the threatened and actual releases of hazardous substances occurred,
 12 within this judicial district.

13 DEFENDANTS

14 4. Defendant City of Moses Lake, Washington (the “City”) is the current
 15 owner and operator of portions of the Site within the meaning of Section 107(a)(1)
 16 of CERCLA, 42 U.S.C. § 9607(a)(1), and owned and operated the wastewater
 17 treatment system on the Site at the time of disposal of hazardous substances at the
 18 Site, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2)

19 5. Defendant The Boeing Company (“Boeing”) is the current owner of
 20 portions of the Site within the meaning of Section 107(a)(1) of CERCLA, 42
 21 U.S.C. § 9607(a)(1), and owned and operated certain facilities on the Site at the
 22 time of disposal of hazardous substances at the Site, within the meaning of Section
 23 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2)

24 6. Defendant Lockheed Martin Corporation (“Lockheed”) owned and
 25 operated the certain facilities on the Site at the time of disposal of hazardous
 26 substances at the Site, within the meaning of Section 107(a)(2) of CERCLA, 42
 27 U.S.C. § 9607(a)(2).

1 7. The Defendants are “persons” within the meaning of Section 101(21)
2 of CERCLA, 42 U.S.C. § 9601(21).

3 STATUTORY FRAMEWORK

4 8. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides:

5 (1) the owner or operator of a vessel or a facility,

6 (2) any person who at the time of disposal of any hazardous substance
7 owned or operated any facility at which such hazardous substances
were disposed of, . . .

8 shall be liable for --

9 (A) all costs of removal or remedial action incurred by the
10 United States Government . . . not inconsistent with the
national contingency plan. . . .

11 GENERAL ALLEGATIONS

12 9. The Moses Lake Site occupies approximately 15 square miles in
13 Grant County, Washington and is situated approximately three miles northwest of
14 the City of Moses Lake, Washington.

15 10. The Moses Lake Site is a “facility” within the meaning of Section
16 101(9) of CERCLA, 42 U.S.C. § 9601(9).

17 11. Between 1942 and 1966, a substantial portion of the Moses Lake Site
18 was used as the former Larson Air force base (“LAFB”). During this period of
19 time, Defendants Boeing and Lockheed conducted substantial operations at the
20 Site.

21 12. Boeing’s operations between 1942 and 1964 included, but were not
22 limited to, flight testing and delivery to the United States Air Force of B-52
23 aircraft, refurbishment of KC-135 aircraft, and operation and facilities to support
24 those programs.

25 13. Lockheed’s predecessor-in-interest was the prime contractor for the
26 Titan I missile program at Larson Air Force Base. Facilities involved in that

1 program included a liquid oxygen generating (“LOX”) plant and a missile
2 assembly and maintenance shop (“MAMS”).

3 14. In or about 1968, Boeing purchased approximately 120 acres of
4 property on the Site, which includes a 3-place hangar and other facilities. Boeing
5 continues to own that facility and had conducted various activities at the Site since
6 1968.

7 15. On information and belief, the activities conducted by Boeing and
8 Lockheed at the Site included the use and disposal of trichloroethylene (“TCE”)
9 and/or chemicals containing TCE.

10 16. The City owns property within the Site, including a drinking water
11 system and a sewage treatment plant within the Site. The City acquired both of
12 these facilities from the Air Force by quit claim deed on June 1, 1967, and has
13 operated these facilities up to the present day. The sanitary sewage treatment plant
14 has collected, and collects, contaminated water from a variety of sources within
15 the Site. On information and belief, the treatment plant may have been a source of
16 TCE releases at the Site.

17 17. During 1988 and 1989, the State of Washington’s Department of
18 Ecology (“Ecology”) and the Washington State Department of Social and Health
19 Services (“DSHS”) sampled the Moses Lake Site well systems including the
20 Skyline Water System. In addition, in 1990 Ecology and Environment (“E&E”),
21 an EPA contractor completed a preliminary investigation for U.S. EPA.

22 18. EPA and the United States Army Corps of Engineers (“Corps”) have
23 undertaken response actions at the Site, including, but not limited to, a Remedial
24 Investigation/Feasibility Study (“RI/FS”).

25 19. Ecology and DSHS sampling, the E&E investigation, and the RI/FS
26 demonstrated that as a result of waste disposal, practices, the groundwater was
27
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1 contaminated with “hazardous substances” as that term is defined in Section
2 101(14) of CERCLA, 42 U.S.C. § 9601(14).

3 20. Hazardous substances, including TCE, were found in the groundwater
4 at the Moses Lake Site.

5 21. Hazardous substances, including TCE, have been found in samples of
6 the soils within the Site.

7 22. There were and are “releases” within the meaning of Section 101(22)
8 of CERCLA, 42 U.S.C. § 9601(22), as well as the threat of continuing releases, of
9 hazardous substances into the environment at and from the Site.

10 CLAIM FOR RELIEF
11 (Claim for Recovery of Response Costs)

12 23. The allegations of the foregoing paragraphs are incorporated herein
13 by reference.

14 24. The releases or threatened releases of hazardous substances at the
15 Moses Lake Site have caused the United States to incur response costs as defined
16 by Sections 101(25) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(25) and 9607(a),
17 in connection with the Site.

18 25. The costs of the response actions taken by the United States in
19 connection with the Site are not inconsistent with the National Contingency Plan,
20 40 C.F.R. Part 300.

21 26. As of August xx, 2005, EPA and the United States Army Corps have
22 incurred response costs for the Site in excess of \$18,000,000.

23 27. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a),
24 Defendants are jointly and severally liable to the United States for the response
25 costs incurred by the United States in connection with the Site.

26 28. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2),
27 Defendants are liable for a “declaratory judgment on liability for response costs . .
28

1 . that will be binding on any subsequent action or actions to recover further
2 response costs.”

3 PRAYER FOR RELIEF

4 WHEREFORE, Plaintiff, the United States of America, respectfully requests
5 that the Court:

6 1. Award the United States a judgment against Defenants, for all costs
7 incurred by the United States through August xx, 2005, in connection with the
8 Moses Lake Wellfield Superfund Site, plus interest;

9 2. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2),
10 enter a “declaratory judgment on liability for response costs . . . that will be
11 binding on any subsequent action or actions to recover further response costs.”

12 3. Grant such other and further relief as this Court deems appropriate.

13 Respectfully submitted,

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23 Attorneys for United States of America

24 Dated: December 23, 2010

Certificate of Service

Pursuant to Fed. R. Civ. 5(d), I certify that on December 23, 2010, I caused true and correct copies of the UNITED STATES' COMPLAINT to be served, in the manner specified below, on:

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